



DLM REF.: 7G-1459

WAIVER OF SERVICE OF SUMMONS

TO: David L. Mazaroli, Attorney for Plaintiff

I acknowledge receipt of your request that I waive service of a summons in the action of INDEMNITY INSURANCE COMPANY OF NORTH AMERICA v. BURLINGTON NORTHERN SANTA FE RAILWAY COMPANY, et al. which is case number 07 CIV. 7858 (BSJ) in the United States District Court for the Southern District of New York. I have also received a copy of the complaint in the action, two copies of this instrument, and a means by which I can return the signed waiver to you without costs to me.

I agree to save the cost of service of a summons and an additional copy of the complaint in this lawsuit by not requiring that I (or the entity on whose behalf I am acting) be served with judicial process in the manner provided by Rule 4.

I (or the entity on whose behalf I am acting) will retain all defenses or objections to the lawsuit or to the jurisdiction or venue of the court except for objections based on a defect in the summons or in the service of the summons.

I understand that a judgment may be entered against me (or the party on whose behalf I am acting) if an answer or motion under Rule 12 is not served upon you within 60 days after September 10, 2007, or within 90 days after that date if the request was sent outside the United States.

Burlington Northern Santa Fe  
Railway Company  
BNSF Railway Co.  
One Santa Fe Plaza  
920 Southeast Quincy Street  
Topeka, KS 66601

Sept. 26, 2007  
Date

Signed:  
Name:

Peter M. Lee  
PETER M. LEE

Title:

Senior General Atty.  
BNSF Railway Co.

Company: